APPENDIX A

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

DAVID M. HICKS,
Petitioner,
v.
GEORGE W. BUSH, President of the United States, *et al.*,
Respondents.

Civil Action No. 02-CV-0299 (CKK)

ORDER HOLDING IN ABEYANCE RESPONDENTS' MOTION TO DISMISS OR FOR JUDGMENT AS A MATTER OF LAW WITH RESPECT TO CHALLENGES TO THE MILITARY COMMISSION PROCESS

By order dated November 18, 2004, counsel for petitioner and respondents were requested to show cause why the respondents' motion to dismiss petitioner David M. Hicks' claims challenging the legality of military commission proceedings should not be held in abeyance pending resolution of the appeal of the recent decision in *Hamdan v. Rumsfeld*, 04-CV-1519 (JR), 2004 WL 2504508 (Nov. 8, 2004) (D.D.C.).

In response to the show cause order, counsel for respondents stated their belief that resolution of the motion in this case should be held in abeyance pending appellate resolution of *Hamdan*. Counsel for the petitioner disagreed, citing the respondents' unwillingness to delay the trial of Mr. Hicks by military commission until this Court had time

to adjudicate his challenges after resolution of *Hamdan*. Petitioner's Brief Showing Cause Why This Case Should Not be Held in Abeyance, dated November 29, 2004, at 5.

On December 13, 2004, counsel for respondents filed a Notice of Recent Issuances informing the Court that "the Appointing Authority for Military Commissions has issued a formal written directive that any trial in David M. Hicks' military commission case ... shall be held in abeyance pending the outcome of the appeal in *Hamdan*." Notice of Recent Issuances at 1. In light of this recent development, it is hereby

ORDERED that resolution of Respondents' Motion to Dismiss or for Judgment as a Matter of Law with Respect to Challenges to the Military Commission Process shall be held in abeyance pending final resolution of all appeals in *Hamdan v. Rumsfeld*. Should the circumstances forming the basis of this decision change, counsel may seek reconsideration of this Order.

IT IS SO ORDERED.
December 15, 2004

JOYCE HENS GREEN
United States District Judge

APPENDIX B

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

IBRAHIM AHMED MAHMOUD AL QOSI,
Plaintiff

v.

GEORGE W. BUSH, *et al.*,
Defendants.

Civil Action No. 04-1937 (PLF)

ORDER

Petitioner Ibrahim Ahmed Mamoud al Qosi is a detainee at the United States Naval Station at Guantanamo Bay, Cuba. On November 2004, Mr. al Qosi filed a petition for a writ of habeas corpus challenging, *inter alia*, his continued detention at Guantanamo, the United States government's designation of Mr. al Qosi as an "enemy combatant," and the government's intention to subject him to trial by military commission.

Many of the arguments raised by Mr. al Qosi were also raised by petitioner Salim Ahmed in *Hamdan v. Rumsfeld*, No. 04-1519 (D.D.C. filed Sept. 2, 2004). On November 8, 2004, Judge Robertson issued a memorandum opinion resolving some of those questions in favor of Mr. Hamdan and denying the government's motion to dismiss the petition. See *Hamdan v. Rumsfeld*, 2004 U.S. DIST LEXIS 22724. The government has noticed an appeal from that ruling, and the Court of Appeals for the District of Columbia Circuit has set oral argument for March 8, 2005. *See Hamdan v. Rumsfeld*, No. 05-5393 (D.C. Cir. filed Nov. 16, 2004).

In light of the court of appeals' consideration in Hamdan of issues that might prove dispositive in this case,

and of news reports indicating that the government has suspended its system for the trial of individuals like Mr. Hamdan and Mr. al Qosi by military commissions at Guantanamo Bay, the Court on November 18, 2004 directed the parties to confer and, if possible, agree on a stipulation that would hold this case in abeyance pending the resolution of Hamdan by the court of appeals. The parties, however, could not agree to a stipulation. Petitioner instead filed a "Statement Opposing Abeyance," and the parties came before the Court for a status conference on December 13, 2004.

At the status conference, counsel for petitioner further articulated his reasons for opposing abeyance, while the government argued in favor of staying proceedings pending resolution of Hamdan. The government also tendered to the Court a directive from John D. Altenburg, Jr., Appointing Authority for Military Commissions in the Office of the Secretary of Defense, indicating that the military commission proceeding against petitioner would be held in abeyance pending resolution of *Hamdan* by the court of appeals. Counsel for the government represented that such abeyance will remain in effect until the court of appeals issues its mandate in *Hamdan*.

Upon consideration of the entire record in this case, and the arguments and representations of counsel, it is hereby

ORDERED that all proceedings in this matter will be held in abeyance pending resolution of *Hamdan v. Rumsfeld* by the court of appeals.

SO ORDERED.

PAUL L. FRIEDMAN
United States District Judge

DATE: December 17, 2004